

### **REMARKS**

In the outstanding Office Action (the "Office Action"), the Examiner objected to claims 32 and 34, and rejected claims 32-35 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,481,010 to Nishikawa et al. (hereinafter, "Nishikawa") in view of U.S. Patent No. 6,449,654 to Blackwell et al. (hereinafter, "Blackwell").<sup>1</sup>

By this amendment, Applicant has amended claims 32 and 34 to correct informalities and improve form. No new matter has been added. Accordingly, claims 1-39 remain pending with claims 1-31 and 36-39 withdrawn from consideration.

In light of the foregoing amendments and based on the arguments presented below, Applicants traverse the rejections of claims under 35 U.S.C. § 103(a) and request the allowance of pending claims 32-35.

#### **I. Restriction Requirement**

In a telephone call on April 26, 2006, the Examiner required restriction under 35 U.S.C. § 121 between the following groups of claims:

Group I - Claims 1-18 and 27-31 drawn to distribution device and method for updating software program, classified in class 725, subclass 132;

Group II - Claims 19-26 drawn to device and method for updating software program, classified in class 725, subclass 132;

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Group III - Claims 32-35, drawn to device and method comprising displaying a selection screen of the content to be updated in a different manner from a selection screen of the other received content, classified in class 725, subclass 37; and

Group IV - Claims 36-39, drawn to device and method comprising receiving a content distribution guide and displaying a reception reservation guide screen by distinguishing any un-received content from received content, classified in class 725, subclass 58.

Applicants' representative provisionally elected Group III, claims 32-35, without traverse, in a telephone call on April 28, 2006. Applicants hereby acknowledge that election.

## **II. Priority Under 35 U.S.C. § 119**

Applicants thank the Examiner for the acknowledgment of foreign priority under 35 U.S.C. § 119. Applicants respectfully request the Examiner to additionally acknowledge receipt of the certified copies of the priority documents at item 12(a) on the Office Action Summary. In support of this request, Applicants provide herewith a copy of the letter requesting the Claim For Priority dated April 25, 2002; cover sheets for priority documents Japanese Patent Application Nos. 2001-002997, filed January 10, 2001, and 2001-390398, filed December 21, 2001; and the stamped postcard acknowledging receipt of the documents by the United States Patent and Trademark Office.

## **III. Claim Objections**

The Examiner has objected to the recitation of "the content to be updated" and "the other received content" in claims 32 and 34. Office Action, page 4. In this

response, Applicants have amended claims 32 and 34, and Applicants submit that the amendments to claims 32 and 34 have addressed the Examiner's concerns.

Accordingly, Applicants respectfully request that the Examiner withdraw the objections to claims 32 and 34.

#### **IV. Claim Rejections Under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejections of claim 32-35 under 35 U.S.C. § 103(a) as being unpatentable over Nishikawa in view of Blackwell because a *prima facie* case of obviousness has not been established.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be met. First, the references, taken alone or in combination, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143.03 (8th ed. 2001). Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Third, a reasonable expectation of success must exist. Moreover, each of these requirements must "be found in the prior art, and not be based on applicant's disclosure." M.P.E.P. § 2143 (8th ed. 2001).

Nishikawa is directed to an "integrated DSS/WebTV receiver that is communicatively connected to an Internet service provider, a DSS service provider, and (optionally) a local broadcast station to provide a display of DSS programs, Internet web sites, and local broadcast channels in a seamless fashion." Nishikawa, column 1, lines 60-65. Further, "[t]he DSS/WebTV receiver generates a graphical user interface (GUI), displayed on a television screen, for facilitating a user's navigation through the DSS, Internet, and local broadcast data." *Id.* at column 1, line 65 through column 2, line 1.

The Office Action asserts that Nishikawa "teaches content that is a sports ticker" and appears to refer to the "program guide information" of Nishikawa as a selection

screen. Office Action, page 5. In addition, the Office Action states that “Figure 13 element 660 and Column 14, lines 20-39 teaches content displayed in a different manner than content in Figure 7.” *Id.* at page 5. While the Office Action asserts that Nishikawa teaches content that is displayed in a different manner, Nishikawa does not teach or suggest “wherein, when the receiving means is receiving data regarding a content to be updated, the display means performs display processing **to display a selection screen of the content to be updated in a different manner from a selection screen of other received content,**” as recited in claims 32 and 34 (emphasis added).

Blackwell does not cure the deficiencies of Nishikawa set forth above, including the failure of Nishikawa to teach or suggest “wherein, when the receiving means is receiving data regarding a content to be updated, the display means performs display processing to display a selection screen of the content to be updated in a different manner from a selection screen of other received content,” as recited in Applicants’ claims 32 and 34. Blackwell discloses a “system and method for transmitting and receiving data,” the “system 10 ha[ving] a data transmission facility 20, at least one forward data path 22, at least one data reception facility 24, and at least one reverse data path 26.” Blackwell, column 2, line 21; column 4, lines 34-37. In addition, Blackwell discloses the “[d]ata transmission facility responds to [a remote procedure call] request by retrieving the requested data, generating at least one header packet, generating at least one data packet, queuing the header and data packets, and transmitting the packets when appropriate.” *Id.* at column 4, lines 44-48. Blackwell further discloses an “illustrative cable distribution system...used to transmit data from a

central facility to a cable subscribers' homes." *Id.* at column 14, lines 46-48. While Blackwell discloses "an implementation wherein system 11 is used to transmit interactive program guide data to subscribers' homes [wherein] set-top boxes 166 may receive and store the interactive program guide data, generate a presentation of the data, and cause the presentation to be displayed on televisions," Blackwell does not teach or suggest "wherein, when the receiving means is receiving data regarding a content to be updated, the display means performs display processing to display a selection screen of the content to be updated in a different manner from a selection screen of other received content," as recited in Applicants' claims 32 and 34. *Id.* at column 15, lines 21-26.

Accordingly, Applicants submit that neither Nishikawa, nor Blackwell, teach or suggest all the elements recited in claims 32 and 34 and a *prima facie* case of obviousness has not been established. Applicants therefore request that the Examiner withdraw the rejection of claims 32 and 34 under 35 U.S.C. § 103(a).

Claims 33 and 35 respectively depend from claims 32 and 34, and thus require all of the elements recited in claims 32 and 34. As discussed above, Nishikawa and Blackwell fail to teach or suggest every element required by claims 32 and 34, and thus also fail to teach or suggest every element required by claims 33 and 35. Accordingly a *prima facie* case of obviousness has not been established with respect to claims 33 and 35. Applicants therefore request that the Examiner withdraw the rejection of claims 33 and 35 under 35 U.S.C. § 103(a).

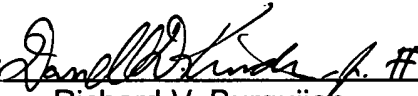
## V. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration of this application and the timely allowance of the pending claims. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: August 11, 2006

By:  # 57160  
for Richard V. Burgujian  
Reg. No. 31,744

### Attachments:

Transmittal Letter for Claim For Priority, dated April 25, 2002;  
Cover Page of Japanese Patent Application No. 2001-002997, filed January 10, 2001;  
Cover Page of Japanese Patent Application No. 2001-390398, filed December 21, 2001;  
Stamped Postcard, dated April 25, 2002.



Attorney Docket No. 05905.0155  
Customer Number 22,852

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
Shoji NISHIKAWA et al. ) Group Art Unit:  
)  
Serial No.: 10/036,454 ) Examiner:  
)  
Filed: January 7, 2002 )  
)  
For: DATA DISTRIBUTION DEVICE )  
AND METHOD AND DATA )  
RECEIVING DEVICE AND )  
METHOD )

**Assistant Commissioner for Patents  
Washington, DC 20231**

Sir:

**CLAIM FOR PRIORITY**

Under the provisions of 35 U.S.C. § 119, Applicants hereby claim the benefit of the filing date of Japanese Patent Application Nos. 2001-002997, filed January 10, 2001, and 2001-390398, filed December 21, 2001, for the above-identified U.S. patent application.

In support of this claim for priority, enclosed a certified copy of each priority application.

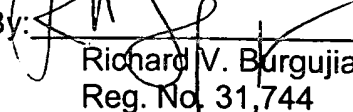
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
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Dated: April 25, 2002

By:   
Richard V. Burgujian  
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RVB/FPD/gah  
Enclosures

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日 本 国 特 許 庁  
JAPAN PATENT OFFICE

別紙添付の書類に記載されている事項は下記の出願書類に記載されて  
いる事項と同一であることを証明する。

This is to certify that the annexed is a true copy of the following application as filed  
with this Office

出 願 年 月 日

Date of Application:

2001年12月21日

出 願 番 号

Application Number:

特願2001-390398

ST.10/C ]:

[JP2001-390398]

出 願 人

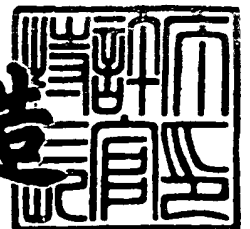
applicant(s):

株式会社セガ

2002年 1月18日

特 許 庁 長 官  
Commissioner,  
Japan Patent Office

及 川 耕 造



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日本国特許庁  
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別紙添付の書類に記載されている事項は下記の出願書類に記載されて  
いる事項と同一であることを証明する。

This is to certify that the annexed is a true copy of the following application as filed  
with this Office

出願年月日

Date of Application:

2001年 1月10日

出願番号

Application Number:

特願2001-002997

[ST.10/C]:

[JP2001-002997]

出願人

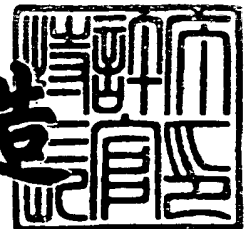
Applicant(s):

株式会社セガ

2002年 1月18日

特許庁長官  
Commissioner,  
Japan Patent Office

及川耕造



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PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:



In Re Application of: Shoji NISHIKAWA et al.

Serial No.: 10/036,454

Group Art Unit:

Filed: Janaury 7, 2002

Examiner:

For: DATA DISTRIBUTION DEVICE AND METHOD AND DATA RECEIVING DEVICE AND METHOD

**BOX MISSING PARTS**

1. Check for \$130.00 for Missing Parts
2. Check for \$130.00 for the non-English Specification fee
3. Check for \$2938.00 for the additional claims and multiple dependent claims fees
4. Response to Notice to File Missing Parts
5. Copy of Notice to File Missing Parts
6. Declaration and Power of Attorney
7. English translation of the Spec. - 47 pgs. 28 indep. clms and 51 clms. total
8. English translation of the Drawings - 12 sheets of drawings containing 15 figures
9. Statement of Accuracy
10. Claim for Priority
11. Certified copies of Japanese Application Nos. 2001-002997, filed January 10, 2001, and 2001-390398, filed December 21, 2001.
12. Information Disclosure Statement and Information Disclosure Citation, PTO1449 with 1 document attached.



Dated April 25, 2002

Docket No.: 05905.0155 RVB/gah - Mail Drop 360

(Due Date: April 25, 2002)

*Handwritten:* KLo  
4/25/02

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